

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 36635 & 36636

STATE OF IDAHO,)	2010 Unpublished Opinion No. 438
)	
Plaintiff-Respondent,)	Filed: April 22, 2010
)	
v.)	Stephen W. Kenyon, Clerk
)	
DONITA YVONNE BOARDMAN,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Seventh Judicial District, State of Idaho, Bonneville County. Hon. Joel E. Tingey, District Judge.

Orders revoking probation and requiring execution of unified four-year sentence with two-year determinate term, for custody interference and unified sentence of seven years, with two-year determinate term, for injury to a child, affirmed.

Molly J. Huskey, State Appellate Public Defender; Justin M. Curtis, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

Before LANSING, Chief Judge; GRATTON, Judge;
and MELANSON, Judge

PER CURIAM

In Docket No. 36635, Donita Yvonne Boardman pled guilty to custody interference. I.C. § 18-4506(a). The district court imposed a unified four-year sentence, with a two-year determinate term, but suspended the sentence and placed Boardman on probation. Boardman violated her probation but after a period of retained jurisdiction, the district court again suspended the sentence and placed Boardman on probation.

In Docket No. 36636, Boardman was charged with lewd conduct with a minor under the age of sixteen. Boardman thereafter pled guilty to an amended charge of felony injury to a child. I.C. § 18-1501. The district court imposed a unified four-year sentence, with a two-year

determinate term, but after a period of retained jurisdiction, suspended the sentence and placed Boardman on probation.

Subsequently, Boardman admitted to violating the terms of her probations, and the district court consequently revoked probation and ordered execution of the original sentences. Boardman filed I.C.R. 35 motions for reduction of her sentences, which the district court denied. Boardman appeals, contending that the district court abused its discretion in revoking probation and that her sentences are excessive.

It is within the trial court's discretion to revoke probation if any of the terms and conditions of the probation have been violated. I.C. §§ 19-2603, 20-222; *State v. Beckett*, 122 Idaho 324, 325, 834 P.2d 326, 327 (Ct. App. 1992); *State v. Adams*, 115 Idaho 1053, 1054, 772 P.2d 260, 261 (Ct. App. 1989); *State v. Hass*, 114 Idaho 554, 558, 758 P.2d 713, 717 (Ct. App. 1988). In determining whether to revoke probation a court must examine whether the probation is achieving the goal of rehabilitation and consistent with the protection of society. *State v. Upton*, 127 Idaho 274, 275, 899 P.2d 984, 985 (Ct. App. 1995); *Beckett*, 122 Idaho at 325, 834 P.2d at 327; *Hass*, 114 Idaho at 558, 758 P.2d at 717. The court may, after a probation violation has been established, order that the suspended sentence be executed or, in the alternative, the court is authorized under Idaho Criminal Rule 35 to reduce the sentence. *Beckett*, 122 Idaho at 326, 834 P.2d at 328; *State v. Marks*, 116 Idaho 976, 977, 783 P.2d 315, 316 (Ct. App. 1989). A decision to revoke probation will be disturbed on appeal only upon a showing that the trial court abused its discretion. *Beckett*, 122 Idaho at 326, 834 P.2d at 328.

Sentencing is also a matter for the trial court's discretion. Both our standard of review and the factors to be considered in evaluating the reasonableness of a sentence are well established and need not be repeated here. See *State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007).

When we review a sentence that is ordered into execution following a period of probation, we will examine the entire record encompassing events before and after the original judgment. *State v. Hanington*, 148 Idaho 26, 29, 218 P.3d 5, 8 (Ct. App. 2009). We base our

review upon the facts existing when the sentence was imposed as well as events occurring between the original sentencing and the revocation of probation. *Id.*

Applying the foregoing standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion either in revoking probation or in ordering execution of Boardman's original sentences without modification. Therefore, the orders revoking probation and directing execution of Boardman's previously suspended sentences are affirmed.